

International Printing and Graphic Communications Union, Local 391 and Salem Gravure Division of World Color Press, Inc. Case 14-CB-5423

January 25, 1982

DECISION AND ORDER

BY CHAIRMAN VAN DE WATER AND
MEMBERS JENKINS AND HUNTER

Upon a charge filed on June 29, 1981, by Salem Gravure Division of World Color Press, Inc., herein called the Charging Party, and duly served on International Printing and Graphic Communications Union, Local 391, herein called the Respondent, the General Counsel of the National Labor Relations Board, by the Regional Director for Region 14, issued a complaint and notice of hearing on August 5, 1981,¹ against Respondent, alleging that Respondent had engaged in and was engaging in unfair labor practices affecting commerce within the meaning of Section 8(b)(1)(B) and Section 2(6) and (7) of the National Labor Relations Act, as amended. Copies of the charge, complaint, and notice of hearing before an administrative law judge were duly served on the parties to this proceeding.

With respect to the unfair labor practices, the complaint alleges in substance that Respondent violated Section 8(b)(1)(B) of the Act since on or about May 6 by disciplining Maintenance Foreman Edward Rinehart and Assistant Maintenance Foreman Billy Olden for acting in according with their supervisory duties.

On August 14, counsel for the General Counsel received a letter, dated August 13, from Respondent, discussing the allegations of the complaint and generally denying that it has engaged in certain unfair labor practices affecting commerce.² On August 21, counsel for the General Counsel mailed a certified letter to Respondent, explaining that its letter of August 13 was not sufficiently specific to

meet the requirements of Section 102.20 of the Board's Rules and Regulations, which require that an answer specifically admit, deny, or explain each of the facts alleged in the complaint. Respondent was further advised that, unless an answer complying with the Board's Rules and Regulations was filed on or before noon, August 28, counsel for the General Counsel would take further action, up to and including a Motion for Summary Judgment. On August 28, counsel for the General Counsel received a letter, dated August 27, from Respondent, stating that the August 13 letter was a clear and sufficient answer. No further response from Respondent was received.

On September 10, counsel for the General Counsel filed with the Board a motion entitled "Motion for Summary Judgment on Complaint and Notice of Hearing for Failure to File an Adequate Answer." He asserts that Respondent failed and refused to file an adequate answer, and that no issue of fact exists warranting or requiring a hearing. He moves that the proceedings be transferred to the Board, that all allegations contained in the complaint and notice of hearing be deemed admitted true, and that an order be entered for an appropriate remedy for the violations alleged, without holding a hearing or without taking evidence in support thereof. Thereafter, on September 16, the Board issued an order transferring the proceeding to the Board and a Notice To Show Cause why the General Counsel's Motion for Summary Judgment should not be granted, stating that a response should be filed on or before September 30. Respondent did not file a response to the Notice To Show Cause.

Pursuant to the provisions of Section 3(b) of the National Labor Relations Act, as amended, the National Labor Relations Board has delegated its authority in this proceeding to a three-member panel.

Upon the entire record in this proceeding, the Board makes the following.

Ruling on the Motion for Summary Judgment

Section 102.20 of the Board's Rules and Regulations, Series 8, as amended, provides as follows:

The respondent shall, within 10 days from the service of the complaint, file an answer thereto. The respondent shall specifically admit, deny, or explain each of the facts alleged in the complaint, unless the respondent is without knowledge, in which case the respondent shall so state, such statement operating as a denial. All allegations in the complaint, if no answer is filed, or any allegation in the complaint not specifically denied or explained in an answer

¹ All dates herein are in 1981 unless otherwise indicated.

² In the letter, Respondent stated:

The charges filed by the Employer against the Union have quite a few mis-givings in them. The Union does not feel it has engaged in, and is engaging in, certain unfair labor practices affecting commerce.

The Maintenance Foreman and Assistant Maintenance Foreman have always been members of the Union and I would hope they continue to be.

The Maintenance Foreman and Assistant Maintenance Foreman direct the work force on their shift. I have never seen them at the bargaining table for collective bargaining nor have I seen their names on grievances for adjustment of. I have seen the Department Manager performing these functions.

The union members felt and still feel that the members in question did not meet their initiation pledge they gave in joining the Union.

The Union did issue a verbal reprimand to brothers Edward Rinehart and Billy Olden as union members wronging a brother member, but not as supervisors representing the Company.

filed, unless the respondent shall state in the answer that he is without knowledge, shall be deemed to be admitted to be true and shall be so found by the Board, unless good cause to the contrary is shown.

The complaint and notice of hearing served on Respondent specifically stated that unless an answer is filed to the complaint within 10 days from the service thereof "all of the allegations of the complaint shall be deemed to be admitted to be true and may be so found by the Board." As outlined above, and as set forth in the uncontroverted allegations of the Motion for Summary Judgment, Respondent replied to the complaint by a letter dated August 13, in which it generally denied that it had engaged in unfair labor practices. By a letter dated August 21, counsel for the General Counsel informed Respondent that its answer was not sufficiently specific to comply with the Board's Rules regarding valid answers. In addition, counsel for the General Counsel advised Respondent of the consequences of the failure to file an answer complying with the Board's Rules and Regulations. However, the only response received from Respondent was a letter dated August 27, stating that its letter of August 13 was a sufficient answer. Thereafter, on September 10, no adequate answer having been filed, counsel for the General Counsel filed the instant Motion for Summary Judgment.

Respondent's answer is improper under Section 102.20 of the Board's Rules and Regulations, because it does not specifically admit, deny, or explain each of the facts alleged in the complaint. Therefore, as Respondent has not filed an answer acceptable under the Board's Rules and Regulations within 10 days from service of the complaint, or within the extended time afforded it by the General Counsel, and as no good cause for its failure to do so has been shown, in accordance with the Rule set forth above, the allegations of the complaint are deemed to be admitted to be true and are so found to be true. Accordingly, we grant the Motion for Summary Judgment.

On the basis of the entire record, the Board makes the following:

FINDINGS OF FACT

I. THE BUSINESS OF THE CHARGING PARTY

The Charging Party, Salem Gravure Division of World Color Press, Inc., is an Illinois corporation engaged in the manufacture of, and the nonretail sale and distribution of, magazines and related products, at its principal office and place of business at Selma Road, Salem, Illinois. During the year ending July 31, a representative period, Salem

Gravure Division of World Color Press, Inc., in the course and conduct of its business operations, manufactured, sold, and distributed at its Salem, Illinois, facility, products valued in excess of \$50,000, of which products valued in excess of \$50,000 were shipped from said facility directly to points located outside the State of Illinois.

We find, on the basis of the foregoing, that the Charging Party is, and has been at all times material herein, an employer within the meaning of Section 2(6) and (7) of the Act, and that it will effectuate the policies of the Act to assert jurisdiction herein.

II. THE LABOR ORGANIZATION INVOLVED

International Printing and Graphic Communications Union, Local 391, is a labor organization within the meaning of Section 2(5) of the Act.

III. THE UNFAIR LABOR PRACTICES

At all times material herein, Edward Rinehart, maintenance foreman, and Billy Olden, assistant maintenance foreman, were selected for and occupied the above positions for the Charging Party, and have been supervisors within the meaning of Section 2(11) of the Act and representatives of the Charging Party for the purposes of collective bargaining or the adjustment of grievances. Furthermore, at all times material herein, Edward Rinehart and Billy Olden have held membership in Respondent.

Commencing on or about May 6, Respondent subjected these two men to investigation and, on or about June 6, to verbal reprimand for acting in accordance with their duties as supervisors and as representatives of the Charging Party for the purposes of collective bargaining or the adjustment of grievances.

Accordingly, we find that by the conduct described in the above paragraph, Respondent did restrain and coerce and is restraining and coercing the Charging Party in the selection of its representatives for the purposes of collective bargaining or the adjustment of grievances, and thereby did engage in, and is engaging in, unfair labor practices within the meaning of Section 8(b)(1)(B) of the Act.

IV. THE EFFECT OF THE UNFAIR LABOR PRACTICES UPON COMMERCE

The activities of Respondent set forth in section III, above, occurring in connection with the operations of the Charging Party described in section I, above, have a close, intimate, and substantial relationship to trade, traffic, and commerce among the several States and tend to lead to labor disputes

burdening and obstructing commerce and the free flow of commerce.

V. THE REMEDY

Having found that Respondent has engaged in and is engaging in unfair labor practices within the meaning of Section 8(b)(1)(B) of the Act, we shall order that it cease and desist therefrom, and that it take certain affirmative action, set forth below, which is designed to effectuate the purposes and policies of the Act.

Specifically, we shall order that Respondent Union be required to send letters to Edward Rinehart and Billy Olden, stating that it will not subject them to investigation or verbal reprimand for acting in accordance with their duties as supervisors within the meaning of Section 2(11) of the Act and as representatives of the Charging Party for purposes of collective bargaining or the adjustment of grievances.

The Board, upon the basis of the foregoing facts and the entire record, makes the following:

CONCLUSIONS OF LAW

1. The Charging Party, Salem Gravure Division of World Color Press, Inc., is an employer engaged in commerce within the meaning of Section 2(6) and (7) of the Act.

2. Respondent International Printing and Graphic Communications Union, Local 391, is a labor organization within the meaning of Section 2(5) of the Act.

3. Edward Rinehart and Billy Olden are supervisors within the meaning of Section 2(11) of the Act and representatives of the Charging Party for the purposes of collective bargaining or the adjustment of grievances.

4. Edward Rinehart and Billy Olden have held and hold membership in Respondent.

5. By subjecting Edward Rinehart and Billy Olden to investigation and verbal reprimand for acting in accordance with their duties as supervisors within the meaning of Section 2(11) of the Act, Respondent restrained and coerced the Charging Party in the selection of its representatives for the purposes of collective bargaining or the adjustment of grievances, and thereby violated Section 8(b)(1)(B) of the Act.

6. The aforesaid unfair labor practices are unfair labor practices affecting commerce within the meaning of Section 2(6) and (7) of the Act.

ORDER

Pursuant to Section 10(c) of the National Labor Relations Act, as amended, the National Labor Relations Board hereby orders that the Respondent,

International Printing and Graphic Communications Union, Local 391, Effingham, Illinois, its officers, agents, and representatives, shall:

1. Cease and desist from:

(a) Subjecting Edward Rinehart and Billy Olden to investigation and verbal reprimand for acting in accordance with their duties as supervisors within the meaning of Section 2(11) of the Act and as representatives of Salem Gravure Division of World Color Press, Inc., for the purposes of collective bargaining or the adjustment of grievances.

(b) In any like or related manner restraining or coercing Salem Gravure Division of World Color Press, Inc., in the selection of its representatives for the purposes of collective bargaining or the adjustment of grievances.

2. Take the following affirmative action which the Board finds will effectuate the policies of the Act:

(a) Send a written notice to Edward Rinehart and Billy Olden, stating that it will not subject them to investigation or verbal reprimand for acting in accordance with their duties as supervisors within the meaning of Section 2(11) of the Act and as representatives of Salem Gravure Division of World Color Press, Inc., for the purposes of collective bargaining or the adjustment of grievances.

(b) Post at its offices at Effingham, Illinois, copies of the attached notice marked "Appendix."³ Copies of said notice, on forms provided by the Regional Director for Region 14, after being duly signed by Respondent's representative, shall be posted by Respondent immediately upon receipt thereof, and be maintained by it for 60 consecutive days thereafter, in conspicuous places, including all places where notices to members are customarily posted. Reasonable steps shall be taken by Respondent to insure that said notices are not altered, defaced, or covered by any other material.

(c) Sign and deliver sufficient copies of said notice to the Regional Director for Region 14 for posting by Salem Gravure Division of World Color Press, Inc., at its Salem, Illinois, facility where notices to its employees are customarily posted, if said Employer is willing to so post.

(d) Notify the Regional Director for Region 14, in writing, within 20 days from the date of this Order, what steps the Respondent has taken to comply herewith.

³ In the event that this Order is enforced by a Judgment of a United States Court of Appeals, the words in the notice reading "Posted by Order of the National Labor Relations Board" shall read "Posted Pursuant to a Judgment of the United States Court of Appeals Enforcing an Order of the National Labor Relations Board."

APPENDIX

**NOTICE TO EMPLOYEES AND MEMBERS
POSTED BY ORDER OF THE
NATIONAL LABOR RELATIONS BOARD
An Agency of the United States Government**

WE WILL NOT subject Edward Rinehart and Billy Olden to investigation and verbal reprimand for acting in accordance with their duties as supervisors and as representatives of Salem Gravure Division of World Color Press, Inc., for the purposes of collective bargaining or the adjustment of grievances.

WE WILL NOT in any like or related manner restrain or coerce Salem Gravure Division of

World Color Press, Inc., in the selection of its representatives for the purposes of collective bargaining or the adjustment of grievances.

WE WILL send a written notice to Edward Rinehart and Billy Olden, stating that we will not subject them to investigation or verbal reprimand for acting in accordance with their duties as supervisors and as representatives of Salem Gravure Division of World Color Press, Inc., for the purposes of collective bargaining or the adjustment of grievances.

**INTERNATIONAL PRINTING AND
GRAPHIC COMMUNICATIONS UNION
No. 391**